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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,216	06/20/2003	Timothy A. Ringeisen	KN P 0119	7299

7590 12/28/2004
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EXAMINER

ZEMEL, IRINA SOPHIA

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,216

Applicant(s)RINGEISEN ET AL. **Examiner**

Irina S. Zemel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-33 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to:
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation “less than about 10 % by weight” in place of “less than 10 % by weight” in claim 2 and as recited in new claim 31 broadens the limits of the original claims. The specification does not support the range outside of 10 % by weight, and introduction of the “about” language, which, as interpreted by the court, encompasses embodiments outside of the 10 % range, thus constitutes new matter. Applicants must either delete the limitation “about” from the claims, or indicate for the examiner the exact portions of the original specification where the support for the newly claimed “about 10 %” range can be found.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. Claim 33 lacks any limitations that set meets and boundaries of the claimed invention. The claim is improper.

Claim Rejections - 35 USC § 102/103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-8, 12, 16-28 and new claims 29-33 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US Patent 6,179,872 to Bell et al., (hereinafter "Bell").

Rejection of claims 1, 2, 4-8, 12, 16-28 stands as per reasons of record. Claims 30-33 are rejected for the same reasons as previously applied to claims 1,2 and 4 (as substantially corresponding to those claims). The reference explicitly discloses shaping the compositions to a desired shape as disclosed, for example, in column 9, lines 60-67.

Claim Rejections - 35 USC § 103

Claims 3, and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell in combination with US Patent 4,066,083 to Ries.

The rejection of claims 3, 9-11 and 13-15 over Bell or Bell in combination with Ries stands as per reasons of record.

Rejection of claims over Battista is withdrawn in view of applicants arguments that in the commercial centrifuges the fibers do not travel or migrate through the suspension and travel with the fluid to form piled up structures.

Response to Arguments

Applicant's arguments filed 11-1-2004 have been fully considered but they are not persuasive.

It is noted that applicants mention that Bell discloses "fibrils", not fibers. However, there is nothing on the record in applicants arguments that the disclosed "fibrils" are different from the claimed "fibers" (rather than the name), or that the claimed fibers do not read on the "fibrils" disclosed by Bell.

The main arguments of applicants is that Bell does not disclose or suggest the claimed invention because Bell does not expressly states that the centrifuged mats produced in Bell resist re-suspension. The applicants then conclude that since the disclosed mats do not resist re-suspension, the mats disclosed by Bell lack interlocking or interlacing. This argument is not found persuasive. First of all, simply because the reference does not mention a given characteristic or property, it does not mean that the property is not inherently present in the disclosed product. The reference does not mention that the centrifuged mats resist re-suspension, but it does not say that the mats do not retard (to any, however small degree since the degree of retardation is not specified in the claims) dislocation of fibrils upon contact with a fluid. In fact, it appears that Bell discloses centrifuging process that is very similar to the one disclosed in the instant application, i.e., using a small laboratory centrifuge and using forces of 500 to

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5000 xg for up to 30 minutes. This disclosure overlaps with the centrifugation conditions disclosed on page 8 or, for example, in illustrative example 1 of the instant application. The applicants argue in respect to Battista reference, that while the large commercial centrifuges will not result in the interlacing mats because the fibers travel with the fluid, and the large scale centrifuges are incapable of creating the interlaced and interlocked product that is possible with the laboratory scale centrifuge devices. (See page 10 of applicants' response, emphasis added). Thus, it is not clear why the mats produced with the laboratory scale centrifuge and using conditions similar to those disclosed by the applicants do not exhibit claimed dislocation retardation properties. In fact, it appears that given applicants explanation of the process using a laboratory centrifuge and given the processing conditions, the mats disclosed by Bell have to, contrary to the applicants' argument, have somewhat interlace structure. If this is not the case, then applicants must have omitted some essential claim limitations that would distinguish the process disclosed in Bell from the claims process.

Regarding applicants arguments that "there is further evidence that Bell's fibrils are behaving differently than the claimed fibers. Concerning the physical tear properties, Bell states in Example 3 (Column 20, Lines 49-60) that the sheet which utilized centrifugation, has reduced strength when compared to the control" the examiner notes that the data of reduced strength is given for the re-suspended and further processed mats, and not the mats obtained after centrifugation. None of the properties exhibited by re-suspended mats are relevant to the properties of centrifuged mats prior to re-suspension. And, thus, any conclusion that is drawn based on the results reported for

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the re-suspended product is similarly irrelevant to the discussion of the properties of the centrifuged product prior to its re-suspension (or further processing). Therefore, the rejection of claims stands as per reasons of record.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina S. Zemel whose telephone number is (571)272-0577. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571)272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ISZ



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